

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

In re: PHARMACEUTICAL INDUSTRY  
AVERAGE WHOLESALE PRICE  
LITIGATION

THIS DOCUMENT RELATES TO

*State of Nevada v. Abbott Laboratories, et al.*,  
Case No. CV02-00260 (Nevada I),

*State of Nevada v. American Home Products, et al.*,  
CA No. 02-CV-12086-PBS (Nevada II), and

*State of Montana v. Abbott Labs., Inc., et al.*  
CA No. 02-CV-12084-PBS

MDL NO. 1456  
Civil Action No. 01-12257-PBS  
Judge Patti B. Saris

Chief Magistrate Judge Marianne B.  
Bowler

**HEARING: March 29, 2006  
10:00 a.m.**

**DEFENDANTS' MOTION FOR LEAVE TO FILE A REPLY BRIEF IN SUPPORT OF  
THEIR SECOND MOTION TO COMPEL DISCOVERY FROM PLAINTIFFS  
THE STATE OF NEVADA AND THE STATE OF MONTANA**

Defendants respectfully request leave to file a Reply Brief in Support of their Second Motion to Compel Discovery From Plaintiffs the State of Nevada and the State of Montana. A Reply Brief will assist the Court as it considers Defendants' Motion and Plaintiffs' Opposition in preparation for oral argument scheduled on March 29, 2006. The Reply Brief is intended to clarify and supplement the record with evidence acquired from deposition testimony and documents produced by the States since the filing of the Motion on January 31, 2006. For example, just this week, the State of Nevada provided Defendants with a document from a "Nevada Prescription Drug Policy Makers' Summit" that conclusively demonstrates that the very interagency communications regarding drug reimbursement issues that Plaintiffs assert never took place (Opp. at 6) actually occurred. Defendants also respond to new arguments raised by the States that were not addressed in the Motion.

WHEREFORE, Defendants respectfully request that the Court grant this Motion and permit its Reply Brief.

**Certification Pursuant to Local Rules 7.1 and 37.1**

Pursuant to Local Rules 7.1(a)(2) and 37.1 of this Court, the undersigned counsel certifies that counsel for Defendants conferred unsuccessfully with Plaintiffs' counsel in an effort to obtain Plaintiffs' consent to the filing of a Reply Brief.

Respectfully submitted on behalf of all  
Defendants in the Nevada and Montana actions,

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March 24, 2006

**Certificate of Service**

I hereby certify that on **March 24, 2006**, I caused a true and correct copy of Defendants' Motion for Leave to File a Reply Brief in Support of their Second Motion to Compel Discovery From Plaintiffs the State of Nevada and the State of Montana, together with accompanying exhibits, to be served on all counsel of record by electronic service pursuant to Case Management Order No. 2 in MDL No. 1456.

/s/ Ronald G. Dove, Jr.